IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

WP(C).No. 18033 of 2006(V)

PETITIONERS:
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1. K.K.BHANUMATHY,
W/O.LATE P.K.KUMARAN,
"PRAYAGA", CHALISSERY.P.O,
PALAKKAD-679 536.

2. P.K.HARIDAS,
S/O.LATE P.K.KUMARAN,
"PRAYAGA", CHALISSERY.P.O,
PALAKKAD-679 536.

BY ADV. SMT.SUMATHY DANDAPANI

RESPONDENTS:
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1. THE EMPLOYEES' PROVIDENT FUND
COMMISSIONER,
SUB REGIONAL OFFICE,
KOZHIKODE.

2. THE EMPLOYEES' PROVIDENT FUND APPELLATE
TRIBUNAL,
NEW DELHI.

3. THE ENFORCEMENT OFFICER,
EMPLOYEES' PROVIDENT FUND ORGANIZATION,
MINISTRY OF LABOUR GOVERNMENT OF INDIA,
DISTRICT OFFICE, "RAM ARCADE",
CHANDRANAGAR, PALAKKAD-678 007.

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC, P.F.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.18033 OF 2006

APPENDIX

EXT.P1: COPY OF CERTIFICATE OF PERMANENT REGISTRATION NO.09 07 04911 PMT SSI SSE/TINY DTD 7.9.1990 ISSUED BY THE DEPARTMENT OF INDUSTRIES & COMMERCE, GOERNMENT OF KERALA TO PRAYAGA SERVICE STATION, KOOTTANAD.

EXT.PP2: COPY OF PAGES 3 TO 7 OF PERMANENT REGISTRATION, REFERRRED TO IN THE WRIT PETITION.

EXT.P2(a): COPY OF PAGE 8 OF PERMANENT REGISTRATION.

EXT.P2(b): COPY OF PAGE 9 OF PERMANENT REGISTRATION.

EXT.P3: COPY OF LICENCE NO.83/97-98 DATED 1.8.97 ISSUED BY NAGALASSERY GRAMA PANCHAYAT TO R2.

EXT.P4: COPY OF LICENCE NO.84/97-98 DATED 1.8.1997 ISSUED BY NAGALASSERY GRAMA PANCHAYAT IN FAVOUR OF PRAYAGA AUTO GARAGE.

EXT.P5: COPY OF REQUEST LETTER OF R1 TO THE PETITIONERS NO.KR/KK/17475/ENT.II[I] DATED 2.2.2000.

EXT.P6: COPY OF REPRESENTATION SUBMITTED BY 1ST PETITIONER BEFORE R1 ON 18.2.2000.

EXT.P7: COPY OF INTIMATION RECEIVED BY THE PETITIONER FROM R1 VIDE NO.17475/ENF.II[I]/2000 DATED 21.3.2000.

EXT.P8: COPY OF APPEAL PREFERRED BY 1ST PETITIONER BEFORE R2 ON 2.5.2000.

EXT.P9: COPY OF PROCEEDINGS OFR1 VIDE NO.KR/17475/ENF.II[I]/ 2000 DATED 18.7.2000.

EXT.P10: COPY OF ORDER DATED 8.4.2005 IN ATA NO.269[7]/2000 OF R2.

EXT.P11: COPY OF JUDGMENT OF THIS HON'BLE COURT DATED 12.7.2005 IN W.P.(C) NO. 19193/2005.

EXT.P12: COPY OF ORDER OF THIS HON'BLE COURT DATED 5.9.2005 IN I.A.NO. 13124/2005 IN W.P.(C) NO.19193/2005.

EXT.P13: COPY OF ORDER DATED 17.10.2005 IN APPEAL, ATA NO.847[A] 2005 OF R2.

EXT.P14: COPY OF NOTICE NO.KR/KK/17475/EO/KKA/PKD/06/335 DATED 5.6.2006 OF R3 ISSUED TO THE 1ST PETITIONER.

W.P.(C) NO.18033 OF 2006

RESPONDENT'S EXHIBITS

EXT.R1(a): TRUE COPY OF LIST OF EMPLOYEES SIGNED BY THE 2ND PETITIONER.

EXT.R1(b): TRUE COPY OF 7A ORDER DATED 10.11.2006.

EXT.R1(c): TRUE COPY OF LETTER DATED 2.2.2007 FROM 2ND PETITIONER.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)No.18033 OF 2006

Dated this the 26th day of November, 2007

JUDGMENT

The petitioners disputed coverage of their establishment under the Employees Provident Fund and Miscellaneous Provisions Act, against which the petitioners have filed appeal before the Provident Fund Appellate Tribunal, which is pending. The grievance of the petitioners in this writ petition is that the Provident Fund Organisation has now quantified the amounts due under Section 7A of the Act notwithstanding the fact that the coverage itself is under question before the Tribunal. During the pendency of this writ petition, they have passed Ext.R1(b) order determining the dues.

I feel that the petitioners can file an appeal against that order also. Therefore, I dispose of this writ petition without prejudice to the right of the petitioners to challenge Ext.R1(b) order also in accordance with law. To enable the petitioners to

obtain interim orders in the appeal, I direct that recovery proceedings pursuant to Ext.R1(b) shall be kept in abeyance for a period of two months.

The writ petition is dispsoed of as above.

S. SIRI JAGAN, JUDGE

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